

8 WORKERS' COMPENSATION

ANSWERS—QUIZ 1

1. a
2. a
3. b
4. a
5. a
6. a
7. b
8. c
9. a
10. d
11. d
12. Workers and their families may suffer a loss of earnings and additional expenses.
13. An “occupational disease” is any disease arising out of and in the course of employment.
14. The three basic types of benefits are: loss of income, medical payments, and rehabilitation.
15. Social Security and private disability programs provided as part of fringe benefit packages by some employers are two other sources of medical benefits.
16. The four classes are temporary total disability, temporary partial disability, permanent partial disability, and permanent total disability.
17. The injured employee need not be completely helpless nor unable to earn a single dollar at a job. The person's limitations need only preclude competing in the open job market and be such that no stable job market exists for a worker with this disability.
18. This policy covers the experience rating and the retrospective rating systems.
19. The FELA gives an employee the right to charge an employer with negligence and prevents the employer from pleading the common law defenses that the worker is a fellow servant or assumes part of the risk. Moreover, the act substitutes the principle of comparative negligence for the common-law concept of contributory negligence.
20. These proceedings are a drawback because the decision about whether benefits should be awarded for permanent partial or total disability (and how much) is based primarily on the worker's inability to work and therefore may offer a strong incentive for the person to put off rehabilitation. Also, in many compromise

settlements, the employer's (or insurer's) main goal is to pay an agreed amount of money and prevent any future liability for needs arising from the injury. These settlements work against an all-out effort to restore the worker to full health and productivity.

ANSWERS—QUIZ 2

1. b
2. a
3. a
4. b
5. a
6. d
7. c
8. d
9. b
10. b
11. d The first piece of legislation was passed in Maryland in 1902.
13. These defenses are assumption of risk, negligence of fellow employees, and contributory negligence.
14. A “scheduled injury” is an injury listed in the law, such as the loss of specific bodily members; a “non-scheduled” injury is more general, such as a back or head injury.
15. They are the direct payment system and the agreement system.
16. A worker is assigned to vocational rehabilitation if medical treatment fails to restore him or her to the job held when he or she was injured.
17. If a worker is permanently partially disabled, he or she has attained maximum improvement without full medical recovery. He or she has benefited from medical and rehabilitative services as much as possible, but still suffers from a partial disability.
18. Under the class rating system, all employers engaged in similar business operations within a state pay the same rate per \$100 of payroll.
19. To be adequate, the program should replace lost earnings (present and projected, including fringe benefits), less those expenses such as taxes and job-related transportation costs that would not continue. The worker should share a proportion of the loss so as to provide incentives for rehabilitation and accident prevention. A two-thirds replacement ratio is set forth in most state statutes.

20. Under the dual capacity doctrine, an injured employee can sue an employer for an injury—even if it arose out of and in the course of employment—if the injury was caused by the employer’s product or a service available to the public.

ANSWERS—CASE STUDY

1. The “course of the employment” aspect of this test refers primarily to the time frame of the injury. Virtually every jurisdiction holds that employees are considered within the course of employment—barring unusual circumstances or unreasonable conduct—from the moment they step onto the employer’s premises at the start of the workday to the moment they leave at the day’s end. Although the definition of “course of the employment” appears to be relatively simple to apply, it has often proved difficult. For example, what is meant by the term premises? In some cases, a worker is not attached to particular premises.
2. Even though an injury occurs off premises, as in travel to and from work, the employee may be compensated if a sufficient employment relationship can be established. Perhaps the employer paid the worker for the time or expense of travel or provided a company vehicle for transportation. In these circumstances, the travel time to and from a worker’s home may be included in the course of employment.
3. The “arising out of” portion of the test is intended to establish a causal relationship between employment and the injury. For example, an employee cannot simply suffer a heart attack while at work and expect compensation. The person must show that the heart attack arose out of the employment (i.e., the stress and strain or exertion of the employment caused the heart attack and it was not a spontaneous breakdown of the cardiovascular system). The degree of employment relationship required varies from state to state, but generally the hazard-causing injury must be peculiar to the particular employment or be increased by the employment before the injury could be said to “arise out of the employment.”
4. Two additional theories have been developed to determine whether or not an injury meets the “arising out of” test: the “actual risk doctrine” and the “positional risk doctrine” or “but for” test. The “actual risk doctrine” requires that the hazard resulting in the injury be a risk of the particular employment regardless of whether it is a risk to which the general public is exposed. According to the “positional risk doctrine,” if the employment places the worker in a position where he or she is injured (“but for” the employment, the injury would not have occurred), the injury is considered to “arise out of the employment.”